

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable.

The non-final Office Action dated March 28, 2005, indicated that claims 45-66 stand rejected under 35 U.S.C. § 101.

Applicant respectfully traverses the Section 101 rejection because the apparent basis of the rejection, that the “Applicant needs to establish in the body of the claim that a machine is performing the steps,” fails to consider the limitations in claim 45 directed to a system “comprising a computer arrangement configured and arranged” These limitations, directed to a computer arrangement configured and arranged to perform claimed functions, meet the requirements of Section 101. For example, as stated in the M.P.E.P., “comprising” is transitional and indicative that claim limitations follow the transition. In the instance of claim 45, the system comprises a computer arrangement that performs functions (*e.g.*, a machine that performs steps).

In addition to the above, statements in the rejection are contradictory to the asserted rationale in the rejection, in that page 2 of the Office Action suggests that “a computer implemented” system has a technological basis, yet the rejected claim is directed to a computer arrangement. The rejection further goes on to suggest a claim amendment to include, in claim 45, a “computer arrangement configured and arranged for...” where claim 45 already includes this language. In this regard, Applicant submits that the rejection is unclear and appears to suggest that claim 45, which is directed to subject matter including a computer, is an appropriate claim under Section 101 as acknowledged on pages 2 and 3 of the Office Action.

Claim 45 is the only claim discussed specifically in the rejection; therefore, Applicant is uncertain as to the Examiner’s rationale behind any rejection of independent claim 56 and claims 57-66, which depend therefrom. Should the rejection of these claims be maintained, Applicant requests an explanation behind the rejection and an opportunity to respond thereto. Moreover, in the context of Section 101 and relevant portions of the M.P.E.P., Applicant submits that the method limitations set forth in claims 56-66 are appropriate as relative to Section 101, in that “Whoever invents or discovers any new or useful process ... may obtain a patent therefore....” In this regard, Applicant further submits that the rejection of claims 56-66 under Section 101 is improper.

Applicant further traverses the Section 101 rejection because the cited rationale behind the rejection does not address the requirements of Section 101 or support the rejection of the claims as indicated. The rejection states that the “method and system claims as presented do not claim a technological basis in the body of the claim.” However, Section 101 does not mention any such technological basis and the rejection fails to indicate why a “technological basis” is applicable in making a rejection over asserted non-statutory subject matter. Further, a search of the M.P.E.P. does not reveal any discussion of a need to show any such technological basis, or reference to the Ex parte Bowman citation on page 2 of the Office Action, which is acknowledged as non-precedential. Applicant therefore submits that the rationale behind the rejection has failed to establish that Section 101 is a proper basis for rejection of the claims.

In view of the above discussion, Applicant believes that the Section 101 rejection is improper and that the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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By: 

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